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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,574	11/16/2000	John M. Packes JR.	00-068	5486

22927 7590 08/17/2005

WALKER DIGITAL  
FIVE HIGH RIDGE PARK  
STAMFORD, CT 06905

EXAMINER

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/714,574

Applicant(s)

PACKES ET AL.

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-29 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/11/05.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. Claims 1-29 have been examined.

#### *Response to Amendment*

2. The Amendment filed on 3/28/05 is sufficient to overcome the prior rejection. A new reference has been added to the 35 USC 103 rejection.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakata (6,115,649) in view of Smith (WO 99/09499) in view of Deaton (5,687,322) in view of Huang (5,953,055).

Claim 1-4, 6-9, 11-15, 17, 18, 23, 25-29: A method, system of operating a vending machine, comprising:

Sakata discloses receiving a request for a transaction from a customer at the vending machine or detecting a customer in proximity to the vending machine (col 2, line 60-col 3, line 32; col 1, line 65-col 2, line 10; col 10, lines 4-11);

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outputting an offer to the customer in response to the received request (col 10, lines 10-22; col 10, lines 4-11).

Sakata further discloses that the distributor can do market research on products to better entice customers to make purchases and that coupons can be presented to users at the vending machine (col 10, lines 10-22).

Sakata further discloses determining whether the requested transaction can be performed by the vending machine (col 1, lines 54-64); and

if it is determined that the requested transaction cannot be performed by the vending machine (col 1, line 54-64), outputting an offer to the customer in response to the received request (col 10, lines 10-22; col 10, lines 4-11).

Sakata further discloses the utilization of a trigger signal (Fig. 3a; Fig. 11; Fig. 12).

Also, note that Sakata's Manufacturer/Distributor is functionally equivalent to a Retailer and that the Host Computer can obviously be located at the Manufacturer/Distributor (Fig. 12).

Additionally, Sakata further discloses a vending machine connected to a Host Computer and a Manufacturer/Distributor/(Retailer) (Fig. 12).

Sakata does not explicitly disclose that the coupon offered to the user can be based on a condition at a retail establishment.

However, Smith further discloses vending machines and retailers, coordinating the different service points including vending machines and retailers, presenting coupons to the users based on the conditions at the service points (Abstract; Fig. 1, 2, 4, 6, 7; page 3, line 17-page 4,

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line 15; page 7, lines 17-25). Smith further discloses offering coupons (page 10, line 25- page 11, line 30).

Also, note that in Sakata's Fig. 12 the vending machine can be located at a variety of locations.

Smith also discloses that the vending machine can be located at variety of locations (page 17, lines 5-10).

Also, Smith's disclosure (Fig. 4; Fig. 5; Fig. 10) renders it obvious that there can be numerous retailers considered as related to the vending machine(s) (Fig. 4; Fig. 5; Fig. 10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Smith's product related coupon dispensed at a vending machine based on conditions at the vending machine and/or store or input from a central control center connected to a store and/or a vending machine and Deaton's targeted or situation specific coupons to Sakata's surveying a user about products available at a store and presenting a user with a coupon at a vending machine that is connected to a central computer and product distributor. One would have been motivated to do this in order to better entice the user to purchase the products available at the store and/or the vending machine.

Also, Huang discloses tracking queues (Abstract, Fig 4a), that customer time in a queue can be minimized to keep customers satisfied and to make better economic sense (col 1, lines 20-40; col 2, lines 15-20) and automatic queue monitoring (col 14, lines 1-9).

Deaton discloses minimizing the time for a user to be able to make a purchase:

“(12) grocery and other retail stores have a broader problem in accumulating customer

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information because of the emphasis on minimizing the amount of time required for a sales transaction, and the attendant impersonality of the customer relationship” (col 3, lines 9-15).

Deaton further discloses that regular customers are desirable:

“Thus, it is extremely difficult to develop any meaningful customer profiles, or to identify customer groups such as regular customers and new customers who might become regular customers. If a store could accumulate more detailed customer information, customer profiles could be developed and used for targeted advertising, marketing and promotional programs” (col 3, lines 15-20).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Huang’s retail store queue monitoring for better economic sense to Sakata, Deaton, and Smith’s providing incentives to better entice customers based on retail and/or vending conditions. One would have been motivated to do this in order to keep customer frustration with long waits low so that customer satisfaction is high and customers become or remain regular customers.

Also, Sakata discloses monitoring when a product is out of stock (col 1 lines 54-64) and also presenting coupons to the user as a reward or as an incentive (col 7, lines 40-45; col 10, lines 4-25).

Deaton further discloses a detection means that are located at a retail establishment for detecting whether a predetermined condition exists at the retail establishment; offer means for selectively outputting a coupon, the offer means selective upon the detection of the predetermined condition (103, 5-25).

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Deaton further discloses presenting coupons to the user via a terminal and that an incentive can be a coupon (col 7, lines 30-35). Deaton further discloses that coupons can be presented to a user based on conditions at a retail store (col 103, lines 5-25).

Deaton further discloses that the outputted offer includes a coupon to be redeemed at the retail establishment (col 103, lines 5-25); that the outputted offer includes a redemption code (col 102, lines 35-50); that the condition is a frequency of sales transactions at the retail establishment (col 103, lines 5-25); that the condition relates to a state of inventory at the retail establishment (col 103, lines 5-25). Deaton further discloses that the condition relates to whether a particular product is in stock at the retail establishment (col 103, lines 5-25). Note that the a product being in stock is an obvious variation of the state of inventory of a product.

Deaton further discloses the step of selecting the offer from among a plurality of offers (col 68, line 49-col 69, line 45); that the selecting step includes generating a selection signal at the retail establishment (col 69, line 15-45).

Claim 5: Sakata, Smith, and Deaton and Huang disclose the method of claim 1. Sakata does not explicitly disclose that the condition is a state of a service queue at the retail establishment.

However, Deaton further discloses minimizing the time in a queue and that customers do not like to be in long queues (col 3, lines 9-15).

Deaton further discloses that customers can be deemed valuable and presented with coupons in different manners dependent upon how valuable that customer is deemed to be (col 68, line 49-col 70, lines 15).

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Deaton further discloses that the coupon can be given based on a variety of conditions (col 103, lines 20-25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Deaton's keeping a customer satisfied, avoiding long lines, and presenting a customer with a coupon to Sakata' enticing a customer to make a purchase at a vending machine and making an offer to the customer. One would have been motivated to do this in order to make offers to the customer that will keep the customer more satisfied.

Claim 10: Sakata, Smith, and Deaton and Huang disclose the method of claim 1. Sakata further discloses the step of storing at the vending machine data representative of the offer (col 10, lines 22-25).

Claim 16: The method of claim 13 is disclosed above. Sakata further discloses determining whether the vending machine is out of stock of an item requested in the request for a transaction (col 1, line 54-64).

Claim 19: Sakata, Smith, and Deaton and Huang disclose the method of claim 17. Deaton further discloses that the presenting of a coupon to a user deemed valuable can be decided upon and performed by a human operator (col 69, lines 1-15).

Sakata further discloses automatic operations replaces manual operations (col 1, lines 37-42; col 1, lines 45-50).

Sakata further discloses adapting to special situations (col 1, lines 53-65).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that any of Sakata's automatic processes can also be initiated manually.



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One would have been motivated to do this in order to provide better control of the process for any special situations.

Claim 20: Sakata, Smith, and Deaton and Huang disclose the method of claim 17.

Sakata further discloses that the trigger signal is generated and transmitted automatically (col 10, lines 10-26; Fig. 12; Fig. 11; Fig. 3a.).

Claim 21: Sakata, Smith, and Deaton and Huang disclose the method of claim 17.

Sakata further discloses that the trigger signal is transmitted directly from the retail establishment to the vending machine (Fig. 12). Note that in the independent claim it was established that it was obvious that the host computer could also be located at the manufacturer/distributor/retailer location.

Claim 22, 24: Sakata, Smith, and Deaton and Huang disclose the method, system of claim 17, 23. Sakata further discloses that the trigger signal is transmitted from the retail establishment to the vending machine by way of a controller located remotely from the retail establishment (Fig. 11; Fig. 12).

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are

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given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to. Also, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Also, in response to the Applicant's Arguments on page 24 of the Amendment dated 3/28/05 concerning dependent claims 24-26, Examiner notes that if a vending machine is remote from a retail store it is also outside, as in not inside of, of a retail store. Also, the citations of Sakata and Smith above disclose that the vending machine can be placed in a wide variety of locations.

### ***Conclusion***

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Eaton (6,012,050) discloses connecting a vending machine, POS, and coupon functions:

“(35) The separation of business functionality from delivery channels can be applied in systems other than financial service systems. The invention can also be applied in the retail system, in which the customer service channels will include a Point Of Sale till, an automatic vending machine, and a loyalty card processing terminal, and the operation means

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will include a relationship manager to provide a base for customer services such as special offers, posting of coupons to selected addresses etc. Also, in a communications system, the customer service channels will include conventional telephone, cable television and interactive television facilities”;

b) Srinivasan (20020046096) discloses providing coupons in order to satisfy a user for waiting in a queue;

c) Smith (WO 9728510) discloses interactions between a vending machine, retailer, and couponing;


d) Takano (JP408016658), Hoshi (JP405101236), and Kitagawa (JP02003141646) discloses presenting a user with coupons in order to satisfy a user for waiting in a queue.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur Duran  
Patent Examiner  
8/4/05